

Before the  
FEDERAL COMMUNICATION COMMISSION  
Washington, DC 20054

In the Matter of	)	
	)	
Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and	)	WT Docket No. 10-112
101 to Establish Uniform License Renewal,	)	
Discontinuance of Operation, and Geographic Partitioning	)	
and Spectrum Disaggregation Rules and Policies for	)	
Certain Wireless Radio Services	)	
	)	
Imposition of a Freeze on the Filing of Competing	)	
Renewal Applications for Certain Wireless Radio Services	)	
and the Processing of Already-Filed Competing Renewal	)	
Applications	)	

To: The Commission

**JOINT *EX PARTE* REQUEST FOR APPROVAL OF AGREEMENT FOR  
RESOLUTION OF COMPETING APPLICATIONS  
PURSUANT TO PUBLIC NOTICE DA 12-1407**

**I. Introduction**

Green Flag Wireless, LLC, CWC License Holding, Inc., Corr Investments I, LLC, James McCotter, and Snapline Communications, LLC (collectively, “Competing Applicants”) and AT&T Inc. on behalf of its 2.3 GHz Wireless Communications Services (“WCS”) licensee subsidiaries, BellSouth Mobile Data, Inc., New Cingular Wireless PCS, LLC, and SBC Telecom, Inc., (together with AT&T Inc., “AT&T,” and collectively with the Competing Applicants, “Parties”) hereby request the Commission to approve the attached Agreement for Resolution of Competing Applications (“Agreement”) among the Parties.<sup>1</sup> The Agreement covers WCS spectrum currently licensed to third parties, subject to Commission approval of AT&T’s acquisition of the spectrum. Approval of this Agreement will further the public interest by

---

<sup>1</sup> Concurrently in a separate filing, the Parties are requesting confidential treatment for certain portions of the Agreement.

removing the cloud of uncertainty over the WCS spectrum and enabling the full utilization of that spectrum and the investment needed to deploy next-generation broadband services over it.

As the Commission is aware, AT&T, the other WCS licensees (collectively with AT&T, “WCS Licensees”), and the Competing Applicants have been involved in a prolonged dispute concerning the status of the WCS licenses held by the WCS Licensees. This dispute has “clouded the status” of the vast majority of the WCS licenses.<sup>2</sup> The Parties have now settled their dispute, contingent upon Commission approval. The Wireless Telecommunications Bureau has recognized that settling this dispute is in the public interest, and, to that end, has waived Section 1.935 of the Commission’s rules for 120 days to the extent that provision limits the consideration that may be offered or accepted for resolution of competing applications.<sup>3</sup> Accordingly, and consistent with that waiver, it should now approve this Agreement.

## **II. Argument**

Commission approval of the Agreement will serve the public interest. The dispute over the WCS authorizations dates back to June 2007, and, while the Commission conditionally granted the renewal applications of the WCS Licensees two years ago, a cloud remains over the licenses that inhibits the full utilization of the spectrum. Grant of this request will “help[] eliminate the uncertainty that has encumbered these spectrum licenses”<sup>4</sup> and further well-

---

<sup>2</sup> *Wireless Telecomms. Bureau Grants Limited Waiver to Facilitate Resolution of Competing Renewal Applications*, WT Dkt No. 10-112, Public Notice, DA 12-1407, at 2 (rel. Aug. 28, 2012) (“*August 28, 2012 Public Notice*”).

<sup>3</sup> *Id.* at 1-2.

<sup>4</sup> *Id.* at 2.

established Commission policy favoring resolution of licensing disputes through settlements among the parties.<sup>5</sup>

Approval of the Agreement also will promote the Commission's broadband objectives by clearing the various obstacles impeding the use of WCS spectrum for mobile broadband services.<sup>6</sup> AT&T and Sirius have negotiated a compromise on the WCS service and technical rules that will allow WCS spectrum to be used for mobile broadband services, including LTE, while limiting the potential interference to satellite radio reception to acceptable levels.<sup>7</sup> AT&T has committed to investing heavily in developing an LTE standard for the WCS A and B Block spectrum, in working with vendors to design compliant LTE equipment, in testing the equipment, in site design, and in constructing a nationwide WCS LTE network.<sup>8</sup> And AT&T is seeking to acquire the WCS spectrum held by other licensees to permit the spectrum to be used

---

<sup>5</sup> See, e.g., *id.* (finding that it is in the public interest to resolve "the competing renewal applications without the cost and delay attendant to potentially protracted litigation"); *Settlement Agreement & Request for Waiver of Section 1.935 of the Comm'n's Rules WWC License L.L.C.*, Order, 22 FCC Rcd. 4027, 4032 ¶¶ 12-13 (WTB 2007) (waiver of Section 1.935 and approval of settlement agreement is in the public interest where it "would permit the resolution of a long-standing and litigious dispute among the Joint Parties and would expedite cellular service to consumers"); *Wireless Telecomms. Bureau Waives Limitations on Payments in Settlement Agreements Among Parties in Contested Licensing Cases*, Public Notice, 14 FCC Rcd. 6551, 6552 (WTB 1999) (supporting settlement where it would "serve the public interest by removing uncertainty that surrounds unresolved, pending applications and licensing matters" and "will allow parties to resolve disputes where the cost and delay of protracted litigation will further hamper the provision of wireless service to the public").

<sup>6</sup> See Federal Communications Commission, *Connecting America: The National Broadband Plan* at 85-86 (2010), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf>.

<sup>7</sup> See *Amendment of Part 27 of the Comm'n's Rules to Govern the Operation of Wireless Commc'ns Servs. in the 2.3 GHz Band*, WT Dkt No. 07-293 et al., Written *Ex Parte* Presentation of AT&T Inc. and Sirius XM Radio Inc. - Joint Submission with Proposals That Resolve Open Issues on Reconsideration (filed June 15, 2012).

<sup>8</sup> See *Amendment of Part 27 of the Comm'n's Rules to Govern the Operation of Wireless Commc'ns Servs. in the 2.3 GHz Band*, WT Dkt. No. 07-293, Written *Ex Parte* Presentation of AT&T Inc. on Performance Requirements at 4-6 (filed June 15, 2012).

as efficiently as possible.<sup>9</sup> The Parties' Agreement to resolve the dispute over the Competing Applications and the Renewal Applications was another essential step to cure uncertainty that has plagued the WCS licenses and to "help[] spur the significant investment needed to deploy valuable, next-generation broadband services to the American public in the affected spectrum."<sup>10</sup> Thus, it is in the public interest for the Commission promptly to approve the Agreement.

### III. Conclusion

For the foregoing reasons, the Parties urge the Commission to conclude that approving the Agreement is in the public interest.

Respectfully submitted,

/s/ Donald J. Evans

Donald J. Evans  
Fletcher, Heald & Hildreth PLC  
1300 North Seventeenth Street  
11<sup>th</sup> Floor  
Arlington, VA 22209  
(703) 812-0430

Counsel for Green Flag  
Wireless, LLC, CWC Wireless  
Holding, Inc., Corr Investments  
I, LLC, and James McCotter

/s/ Jonathan L. Wiener

Jonathan L. Wiener  
Goldberg, Godles, Wiener &  
Wright  
1229 Nineteenth Street, NW  
Washington, DC 20036-2413  
(202) 429-4900

Counsel for Snapline  
Communications, LLC

/s/ Michael P. Goggin

M. E. Garber  
Gary L. Phillips  
Michael P. Goggin  
AT&T Services, Inc.  
1120 Twentieth Street, NW  
Suite 1000  
Washington, DC 20036  
(202) 457-2055

Counsel for BellSouth Mobile  
Data, Inc., New Cingular  
Wireless PCS, LLC, SBC  
Telecom, Inc., and AT&T Inc.

Attachment

---

<sup>9</sup> See ULS File Nos. 0005301644 et al., Description of Transaction, Public Interest Showing and Related Demonstrations of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, and Comcast Corp. at 11-15 (filed Aug. 1, 2012); ULS File Nos. 0005305382 et al., Description of Transaction, Public Interest Showing and Related Demonstrations of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, and Horizon Wi-Com, LLC at 9-12 (filed Aug. 1, 2012); ULS File Nos. 0005346050 et al., Description of Transaction, Public Interest Showing and Related Demonstrations of AT&T Inc. and NextWave Wireless Inc. at 8-11 (filed Aug. 13, 2012).

<sup>10</sup> August 28, 2012 Public Notice at 2.